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Attorneys for Plaintiff Emelia M. Pasternak

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMELIA M. PASTERNAK,	)	Case No. 4:07-cv-04980 CW
)	
Plaintiff,)	
	)	ADMINISTRATIVE MOTION TO
v.	)	CONSIDER WHETHER CASES
	)	SHOULD BE RELATED
TRANS UNION, LLC, EXPERIAN)	
INFORMATION SOLUTIONS, INC.,	)	[Local Rules 3-12 and 7-11]
EQUIFAX INFORMATION SERVICES, LLC,)	
and CAPITAL ONE BANK, a national)	
association,)	
)	
Defendants.)	

Plaintiff moves for administrative relief to have these cases deemed Related:

Pasternak v. Trans Union et al., ND Cal. case no. 4:07-cv-04980 CW
Pasternak v. Trans Union et al., ND Cal. case no. 3:08-cv-02972 MHP

Pasternak v. Trans Union, et al., ND Cal. case no. 3:07-cv-04980 CW
Motion for Administrative Relief re Related Cases

1 Local Rule 3-12(a) provides that one action is related to another action when the
2 actions concern substantially the same parties, property, transaction or event and it
3 appears likely there will be an unduly burdensome duplication of labor and expense or
4 conflicting results if the cases are conducted before different Judges. These cases meet
5 that criteria.
6

7 The parties are identical: In both actions, Emelia M. Pasternak is the plaintiff and
8 the defendants are Capital One Bank, Trans Union, Equifax and Experian.
9

10 The claims in both cases involve the theft of plaintiff's identity by an imposter
11 who opened accounts in her name at Capital One Bank, Capital One Bank's continued
12 efforts to collect the fraudulent account from Ms Pasternak even after it knew that the
13 account had been opened fraudulently and its subsequent lawsuit against her, and the
14 violations of the Fair Credit Reporting Act by all defendants.
15

16 In the first action, case 4:07-cv-04980 CW, Ms Pasternak alleged the violations
17 she was aware of in late 2007. When defendants produced discovery materials in 2008,
18 plaintiff discovered additional violations of the FCRA that had occurred before the filing
19 of the first complaint but of which she was not aware. Additionally, she discovered
20 several new violations that occurred after the filing of the original complaint. Plaintiff
21 submitted a proposed Second Amended and Supplemental Complaint to defense counsel
22 that set out these newly discovered and recent violations of the FCRA. Plaintiff asked
23 defendants to stipulate to permitting plaintiff to file that pleading. Defendants refused.
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1 Rather than burden the Court and counsel with a motion for leave to file the
2 proposed Second Amended and Supplemental Complaint and all the accompanying
3 motion papers, plaintiff filed a new action which is case no. 3:08-cv-02972 MHP.
4

5 Plaintiff has asked defendants to stipulate that these actions are related. Capital
6 One Bank agreed the cases are related, but the other defendants have not responded.

7 Dated: July 8, 2008 KEMNITZER, ANDERSON, BARRON,
8 OGILVIE & BREWER LLP
9 and
10 ROBERT S. SOLA, P.C.

11 By _____/s/
12 Andrew J. Ogilvie
13 Attorney for Plaintiff Emelia M. Pasternak
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Attorneys for Plaintiff Emelia M. Pasternak

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMELIA M. PASTERNAK,	)	Case No. 4:07-cv-04980 CW
)	
Plaintiff,)	
	)	DECLARATION OF ANDREW J.
v.	)	OGILVIE IN SUPPORT OF
	)	PLAINTIFF'S ADMINISTRATIVE
TRANS UNION, LLC, EXPERIAN	)	MOTION TO CONSIDER
INFORMATION SOLUTIONS, INC.,	)	WHETHER CASES SHOULD BE
EQUIFAX INFORMATION SERVICES, LLC,	)	RELATED
and CAPITAL ONE BANK, a national)	
association,	)	[Local Rules 3-12 and 7-11]
)	
Defendants.)	

I, Andrew J. Ogilvie, declare as follows:

1 1. I am an attorney licensed to practice in California and admitted to practice
2 before the United States District Court for the Northern District of California. I represent
3 Emelia Pasternak, plaintiff in this action.
4

5 2. I make this declaration in support of plaintiff's motion for administrative
6 relief to have the following actions deemed related:

7 *Pasternak v. Trans Union et al.*, ND Cal. case no. 4:07-cv-04980 CW
8 *Pasternak v. Trans Union et al.*, ND Cal. case no. 3:08-cv-02972 MHP

9 3. In both actions, Emelia M. Pasternak is the plaintiff and the defendants are
10 Capital One Bank, Trans Union, Equifax and Experian.
11

12 4. The claims in both cases involve the theft of plaintiff's identity by an
13 imposter who opened accounts in her name at Capital One Bank, Capital One Bank's
14 continued efforts to collect the fraudulent account from Ms Pasternak even after it knew
15 that the account had been opened fraudulently and its subsequent lawsuit against her, and
16 the violations of the Fair Credit Reporting Act by all defendants.
17

18 5. In the first action, case 4:07-cv-04980 CW, Ms Pasternak alleged the
19 violations she was aware of in late 2007. When defendants produced discovery materials
20 in 2008, plaintiff discovered additional violations of the FCRA that had occurred before
21 the filing of the first complaint but of which she was not aware. Additionally, she
22 discovered several new violations that occurred after the filing of the original complaint.
23

24 6. My co-counsel, Mr Sola, and I prepared a proposed Second Amended and
25 Supplemental Complaint and submitted it to all counsel for defendants with our request
26 that their clients stipulate to permitting plaintiff to file that pleading. All of the
27

1 defendants' counsel refused to stipulate to the filing of the Second Amended and
2 Supplemental Complaint.

3
4 7. To avoid burdening the Court and counsel with a motion for leave to file
5 the proposed Second Amended and Supplemental Complaint and all the accompanying
6 motion papers, we filed a new action on behalf of Ms Pasternak that sets out the claims
7 that were unknown to her at the time the first action was filed together with the claims
8 that arose after the filing of the first action. That new case is *Pasternak v. Trans Union*,
9 case no. 3:08-cv-02972 MHP.

10
11 8. I have asked counsel for each of the defendants to accept service of the
12 new complaint on behalf of their clients and to stipulate that these actions are related. All
13 defendants agreed to have their counsel in this case accept service of process for the new
14 case, but only Capital One Bank has agreed the cases are related. The other defendants
15 have not responded.
16

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct. Executed this 8th day of July, 2008 at San Francisco,
19 California.
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22 /s/
Andrew J. Ogilvie

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Attorneys for Plaintiff Emelia M. Pasternak

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMELIA M. PASTERNAK,	)	Case No. 4:07-cv-04980 CW
)	
Plaintiff,)	
	)	[PROPOSED]
v.	)	ORDER DEEMING CASES
	)	RELATED
TRANS UNION, LLC, EXPERIAN)	
INFORMATION SOLUTIONS, INC.,)	
EQUIFAX INFORMATION SERVICES, LLC,)	
and CAPITAL ONE BANK, a national)	
association,)	
)	
Defendants.)	

The Court having considered plaintiff's administrative motion to have these cases deemed Related and the responses submitted by the defendants herein, it is hereby ORDERED that the following cases are Related:

Pasternak v. Trans Union, et al., ND Cal. case no. 3:07-cv-04980 CW
[Proposed] Order re Related Cases

1 *Pasternak v. Trans Union et al.*, N.D. Cal. case 4:07-cv-04980 CW
2 *Pasternak v. Trans Union et al.*, ND Cal. case no. 3:08-cv-02972 MHP

3 Dated: July _____, 2008

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5 _____
6 Claudia Wilken
7 Judge, United States District Court
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28 *Pasternak v. Trans Union, et al.*, ND Cal. case no. 3:07-cv-04980 CW
[Proposed] Order re Related Cases